

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2002-84-T - ORDER NO. 2002-558

AUGUST 1, 2002

IN RE: Application of Jon R. Hambel D/B/A The)	
Moving Man, 146 South 1 st Street, Fort Mill,)	ORDER GRANTING
S.C. 29715, for a Class E Certificate of Public)	CLASS E CERTIFICATE
Convenience and Necessity to Transport)	
Commodities.)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Jon R. Hambel d/b/a The Moving Man (hereafter referred to as "The Moving Man" or the "Applicant"). By its Application, the Moving Man requests a Class E Certificate of Public Convenience and Necessity to transport household goods. Specifically, the Applicant seeks authority to transport household goods as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):
Between points and places in York, Lancaster, and Chester
counties.

The Commission's Executive Director instructed The Moving Man to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing provided details of the Application and of the requested authority and provided information for public participation in the proceedings concerning the Application. No Petitions to Intervene were filed.

A hearing on The Moving Man's Application was held on June 26, 2002, at 2:30 P.M. in the hearing room at the offices of the Commission. The Honorable William T. Saunders, Chairman, presided at the hearing. Jon R. Hambel appeared pro se on behalf of the Applicant. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

APPLICABLE LAW

1. S.C. Code Ann. § 58-23-20 (Supp. 2001) provides in part:

No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons or property for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter.

...

2. S.C. Code Ann. § 58-23-40 (1976) provides:

No motor vehicle carrier shall hereafter operate for the transportation of persons or property for compensation on any improved public highway in this State without first having obtained from the Commission, under the provisions of Article 3 of this chapter, a certificate and paid the license fee required by Article 5.

3. S.C. Code Ann. § 58-23-590(A) (Supp. 2001) provides:

The commission shall promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

4. S.C. Code Ann. § 58-23-590(C) (Supp. 2001) provides:

The commission shall issue a common carrier certificate or contract carrier permit of public convenience and necessity if the applicant proves to the Commission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission's regulation; and
- (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirements of public convenience and necessity. The determination that the proposed service is required by the public convenience and necessity must be made by the commission on a case by case basis.

5. Following enactment of S.C. Code Ann. § 58-23-590, the Commission proposed amendments and changes to the Commission's regulations governing Motor Carriers. The amended regulations became effective in June 1998.

6. 26 S.C. Regs. 103-102(1) (Supp. 2001) defines "Certificate of PC&N" as

the certificate of public convenience and necessity authorized to be issued under provisions of Chapter 23 of Title 58 of the Code of Laws of South Carolina, 1976. Certificates of PC&N shall be required of all for-hire passenger carriers, household goods carriers (except those operating exclusively within the limits of any municipality), and hazardous waste for disposal carriers. Holders of Certificates of PC&N shall be considered regulated carriers.

7. 26 S.C. Regs. 103-102(5) (Supp. 2001) defines "Common Carrier by Motor Vehicle" as "any person¹ which holds itself out to the general public to engage in

¹ 26 S.C. Code Regs. 103-102(15) defines "person" as "any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof."

the transportation by motor vehicle in intrastate commerce of persons or property for compensation, whether over regular or irregular routes, except as exempted in Section 58-23-50 and Section 58-23-70 of Code of Laws of South Carolina, 1976.”

8. A “Class E Motor Carrier” is defined in 26 S.C. Regs. 103-114 (Supp. 2001) as a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle including a motor vehicle containing goods packed by a packing service. A Class E motor carrier must obtain either a Certificate of PC&N or FWA from the Commission.”

9. 26 S.C. Code Regs 103-133 (Supp. 2001) is entitled “Proof Required to Justify Approving an Application” and provides in subsection (1) as follows:

(1) PC&N (Household Goods or Hazardous Waste for Disposal). An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service. The public convenience and necessity criterion must be shown by the use of shipper witnesses. If the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- a. FIT. The applicant must demonstrate or the Commission determine that the applicant’s safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.P.D.P.S safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and

regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.

- b. ABLE. The applicant should demonstrate that he has either purchased or leased on a long-term basis necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.
- c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

10. 26 S.C. Code Regs. 103-134 (Supp. 2001) is entitled "When Hearing May Be Held" and provides in relevant part that "[w]hen an application for a Certificate of PC&N is submitted and there is no opposition, the Commission may hold a hearing if it deems necessary for the purpose as it shall determine, including the issue of fitness, willingness, or ability of the applicant to appropriately perform the proposed service, or the issue of whether public convenience and necessity are already being served."

EVIDENCE OR RECORD

Jon Hambel testified that he has lived in South Carolina for approximately three years. Prior to moving to South Carolina, Hambel lived in Oklahoma. The Company seeks to move household goods between points and places in York, Lancaster, and Chester counties. Hambel had a household goods and office moving business in

Oklahoma for approximately eight to nine years. He stated that when his moving company in Oklahoma received complaints, he took care of the complaints. Hambel does not have authority to make interstate moves.

Hambel said he was notified at one point in time that he needed to obtain a Certificate of Public Convenience and Necessity to move household goods in South Carolina. The testimony reveals that the Moving Man currently has one full time employee -- Hambel's son, and three part time employees. Hambel stated his Company normally specializes in smaller moves.

The Company has a twenty-six foot moving truck and a sixteen foot box van. Additionally, Hambel testified that he has two appliance dollies, three boxed dollies, four four-wheelers, six dozen moving blankets, rubber bands, and ropes. Hambel stated that this equipment was purchased in South Carolina.

Regarding the public convenience and necessity for an additional household goods carrier in York, Lancaster and Chester counties, Hambel presented a growth chart from the Catawba Regional Council of Governments showing that York County is the fastest growing county in the State of South Carolina. Additionally, to illustrate the need for an additional mover in the counties where The Moving Man seeks to serve, Hambel presented telephone logs from the Company's phone. The Company is the only mover headquartered in Fort Mill, South Carolina. Hambel is renting storage facilities from B&B Rentals in Fort Mill. At present, the Moving Man has one locker. Hambel introduced a telephone log which showed persons who called the Moving Man inquiring about the Company's moving services.

Hambel also testified that the Company will cooperate with Transport Police to conduct with a safety profile. There are no outstanding judgments against the Moving Man. Further, Hambel testified that he is familiar with the statutes and regulations governing safety operations in South Carolina. Hambel agreed to operate in compliance with the statutes and regulations governing the movement of household goods.

Patricia Hambel also testified that she answers the telephone and talks to clients for the Company. She testified that the Company promptly handles complaints. According to Mrs. Hambel, she receives calls inquiring about the Company's moving services from Charlotte, Lancaster, Chester, Rock Hill, and Ft. Mill. Regarding the details of the phone log, Mrs. Hambel stated that persons call inquiring about the Company's moving services while the potential customer is at work – work includes the potential customer's employer's business.

Shawn Hambel, Jon Hambel's son, also presented testimony. Shawn Hambel became involved in the moving business approximately two years ago. Prior to joining the moving business, Shawn Hambel was an electrician. He does not drive the Company's trucks, however; he does help move household goods. Regarding the need for an additional mover in the three counties, Hambel says he receives calls also from potential customers who reside in York, Lancaster, and Chester counties.

FINDINGS OF FACT

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. According to the Application and the testimony presented, the Moving Man desires to provide moving services of household goods between points and places in York, Lancaster, and Chester counties. We find that based upon the evidence presented at the hearing, the Applicant should be granted authority to provide moving services of household goods between points and places in York, Lancaster and Chester counties.

2. The Applicant, The Moving Man, is fit, willing, and able to provide and properly perform the services which it seeks to provide in York, Lancaster, and Chester counties. This finding of fact is based upon the testimony of the record and the Application. “Fitness” was demonstrated by Jon Hambel testifying (1) that the Applicant is aware of the requirement for a safety rating and will undergo the requisite safety inspection, (2) that there are no outstanding judgments pending against the Applicant, and (3) that the Applicant will operate in compliance with all statutes and regulations pertaining to for-hire motor carrier operations. Further, the application contains (1) a certification that the Applicant is familiar with the regulations and statutes governing for-hire motor carrier services and (2) that there are no outstanding judgments pending against the Applicant. “Able” was demonstrated by the testimony of Jon Hambel who testified that the Applicant has operated as a household goods moving carrier for eight to nine years in Oklahoma. Additionally, Hambel testified that The Moving Man owns one twenty-six foot moving truck and a sixteen foot box van. Additionally, the Company owns moving equipment such as dollies, wheelers, blankets, rubber bands, and rope. Further, according to the Financial Statement Exhibit of the Applicant, The Moving Man

possesses the financial wherewithal necessary to provide household goods moving services between points and places in York, Lancaster, and Chester counties. Moreover, according to the Application, The Moving Man is aware of the Commission's insurance requirements and provided assurance that The Moving Man would obtain the requisite insurance coverage. "Willingness" was demonstrated by the filing of the Application and the testimony of Jon Hambel indicating the Applicant's desire to undertake this business venture.

3. The public convenience and necessity would be served by The Moving Man receiving authority to provide household goods services between points and places in York, Lancaster, and Chester counties. This finding of fact is based upon the testimony of Jon Hambel, Patricia Hambel, and Shawn Hambel. The testimony reveals that upon the Applicant receiving authority to move household goods, the Moving Man would be the only household goods mover headquartered in Fort Mill. Additionally, the testimony also reveals that York County is the fastest growing county in South Carolina. Moreover, the testimony reveals that The Moving Man has received numerous calls from the York, Lancaster, and Chester county areas from persons inquiring about the Applicant's moving services.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that The Moving Man has demonstrated through the Application and the testimony presented that it meets the requirements of fit, willing, and able as set forth in 26 S.C. Code Ann. Regs. 103-133 (Supp. 2001).

2. The Commission concludes that The Moving Man has sufficiently demonstrated through its presentation that the public convenience and necessity between points and places in York, Lancaster, and Chester counties requires the services proposed by The Moving Man.

3. Based on the conclusions above, that The Moving Man has demonstrated that it meets the requirements of fit, willing, and able and that The Moving Man has demonstrated that the public convenience and necessity require its services in York, Lancaster, and Chester counties, the Commission concludes that a Class E Certificate of Public Convenience and Necessity should be granted to The Moving Man with the authority to provide for the movement of household goods between points and places in York, Lancaster, and Chester counties, South Carolina. This grant of authority is contingent upon The Moving Man complying with all Commission regulations, and this grant of authority is not effective until such time as The Moving Man comes into compliance with the Commission regulations as outlined below.

IT IS THEREFORE ORDERED THAT:

1. The Applicant, Jon R. Hambel d/b/a The Moving Man should be granted a Class E Certificate of Public Convenience and Necessity authorizing The Moving Man to provide transportation services by motor vehicle as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):
Between points and places in York, Lancaster, and Chester
Counties, South Carolina.

2. The Moving Man shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a Certificate shall be issued to The Moving Man authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of a Certificate, the motor carrier services authorized herein shall not be provided.

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5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)